

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

February 5, 2009



Planning Variance PV09-08: Ross Payan

CASE DESCRIPTION: a request for approval of a 3.5-foot variance from the minimum 7.5-foot side yard required on lots in Multiple-Family (MF) zoning districts, to allow the proposed replat and reorientation of one lot (currently facing Boyett Street) into two lots (proposed to face Gaytha Circle), each of which will be occupied by an existing fourplex set back 4 feet from the new side property line separating the proposed two lots

LOCATION: 703 Gaytha Circle at the corner of Boyett Street and Gaytha Circle

LEGAL DESCRIPTION: Lot 16 in Block 3 of Hyde Park Addition

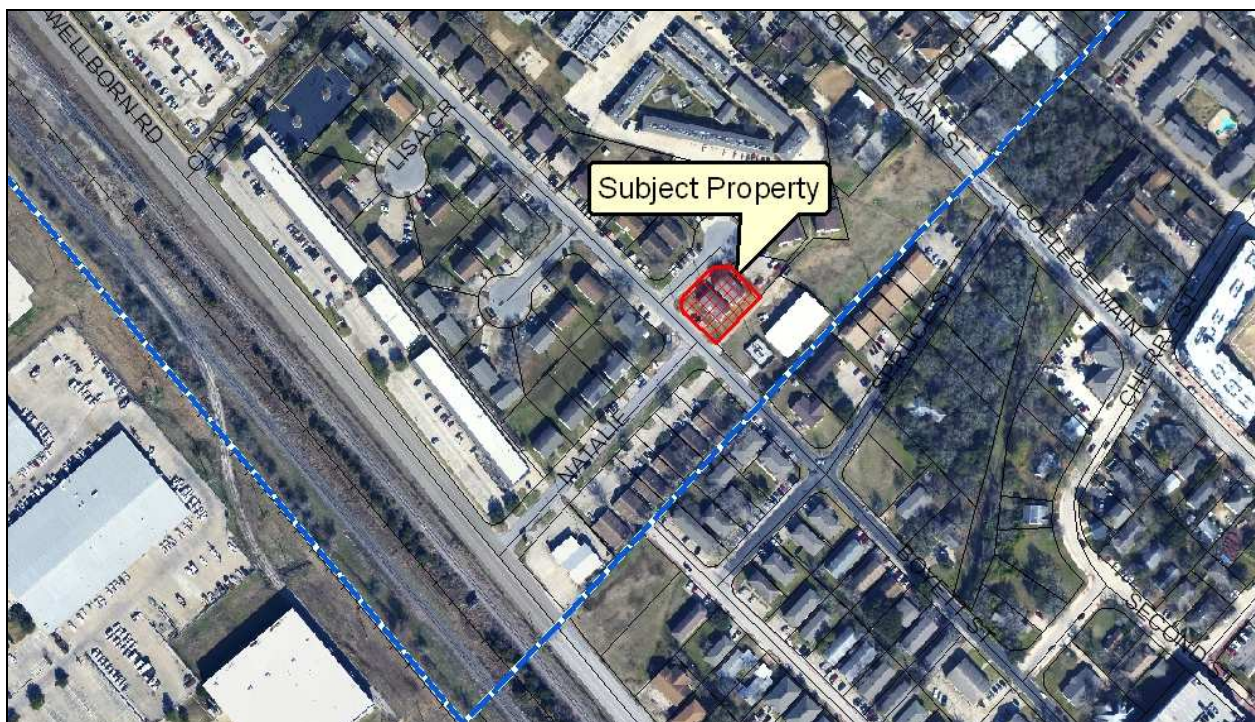
EXISTING LAND USE: multi-family dwellings (two fourplexes)

ZONING: Multiple-Family District (MF)

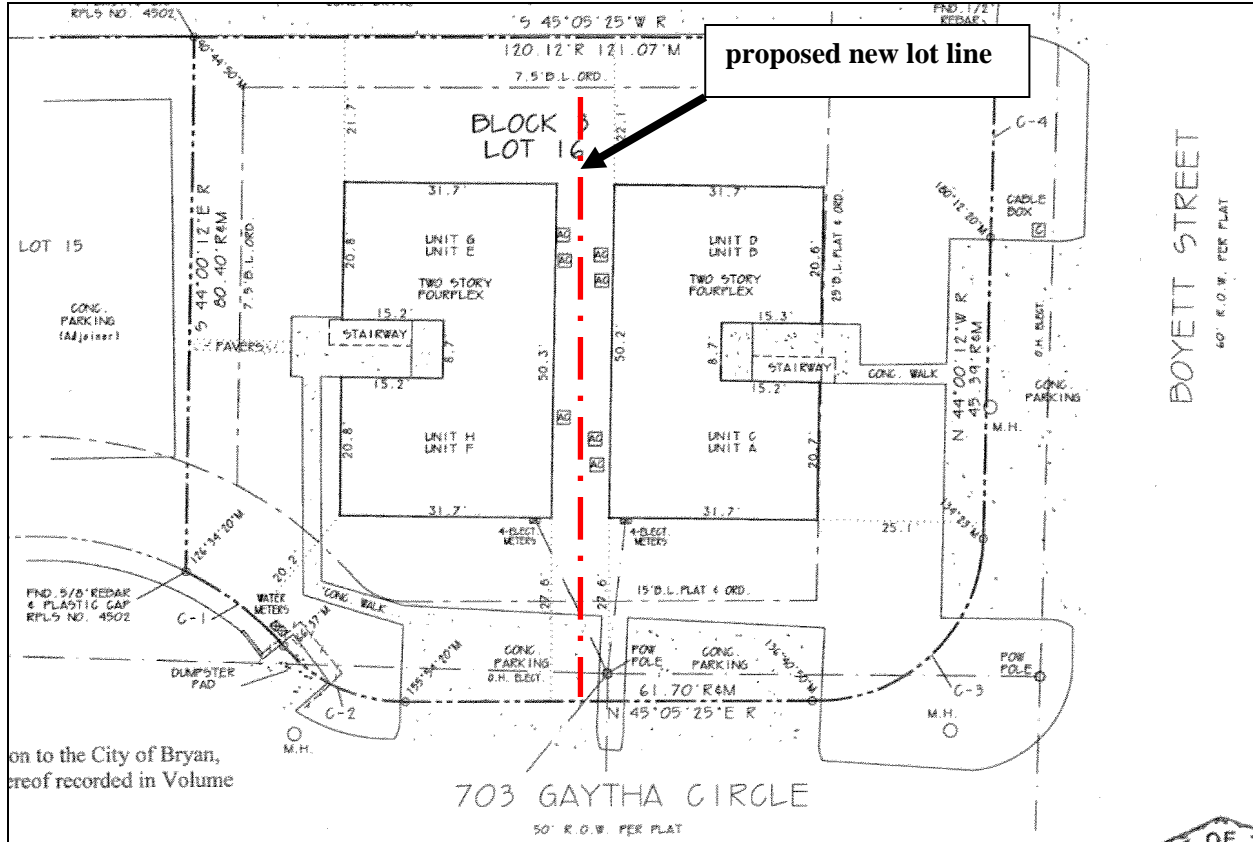
APPLICANT(S): Ross Payan

STAFF CONTACT: Randy Haynes, Staff Planner

SUMMARY RECOMMENDATION: Staff advises **approving** this request for variance, limiting the scope of the variance to only the structures that exist today.



SITE PLAN:



BACKGROUND:

In order to separate two existing fourplexes occupying a single lot into two properties each with their own lot, the applicant is requesting a variance from the minimum 7.5-foot building setback requirement. The buildings exist today and no physical change is proposed. The two buildings were built 8 feet apart from one another. The proposed lot line will be placed half-way between the two structures. These structures were permitted and planned to be eight feet apart. The addition of the lot line is not changing these circumstances. The character of the neighborhood will not be altered since these two structures have legally been in existence for over 25 years.

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variances will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

The request, if approved, would facilitate the subdivision of the existing lot. If the variance is granted, staff finds that the status quo will not change and therefore believes that

granting the requested variance will have no detrimental effects on public health, safety and welfare nor will it be injurious to area properties.

2. That the granting of the variances will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Staff finds that granting the requested variances will have no detrimental effect on public health, safety and welfare nor will it be injurious to abutting properties.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

Denial of the variance will limit the applicant's access to (re-)development opportunities. Staff finds that the hardship imposed on the applicant by requiring compliance with the existing standards outweigh the benefits derived by the general public through compliance with the requirements of this chapter. In addition, staff cannot identify any significant benefit to the public that compliance with the ordinance would provide in this particular case. If existing buildings on this property are someday demolished, there will remain two lots of usable size and shape, made from the subject property's one existing lot.

RECOMMENDATION:

Based on these considerations, staff recommends **approving** this request so long as the scope of the variance is limited to the structures that exist today. Approval of this variance would thereby facilitate the subdivision of the existing lot but not permit further development within the standard 7.5-foot building setback.